

CALIFORNIA STATE COUNCIL ON DEVELOPMENTAL DISABILITIES

BY-LAWS

(Revised – July 17, 2007)

ARTICLE I. NAME & DEFINITIONS

The name of this organization shall be the State Council on Developmental Disabilities.

ARTICLE II. RESPONSIBILITIES

The responsibilities of the State Council on Developmental Disabilities shall be as set forth in 42 United States Code Section 51001 et. seq. and Sections 4433.5 and 4520 et. seq. of the California Welfare and Institutions Code.

ARTICLE III. PRINCIPAL OFFICE

The principal office of the Council shall be located in the County of Sacramento, California. The Council may change the principal office from one location to another within the county.

ARTICLE IV. AREA OF SERVICE

The area of service shall be the State of California.

ARTICLE V. MEMBERSHIP

Appointment to the Council requires each member to fully discharge his/her duties consistent with the responsibilities of representing persons with developmental disabilities. The membership of the Council shall consist of the categories of people in accordance with state and federal law.

SECTION 1. Appointments:

Pursuant to Division 4.5, Chapter 2, Article 1, Section 4521 (b)(1), (2), and (3) of the Welfare and Institutions Code, there shall be twenty-nine 29 voting members on the Council appointed by the Governor, as follows:

- (a) Nineteen (19) members of the Council shall be persons with a developmental disability or parents, siblings, guardians or conservators of these persons. In these By-laws these persons are referred to as consumer members. Of the 19 members, thirteen (13) shall each be current members of the 13 Area Boards, one member from each board and representing consumers and families in their local catchment area.
- (b) Ten (10) members of the Council shall include: directors or members, as appropriate, of State departments or agencies or of local agencies as prescribed in state and federal laws. These persons are referred to as agency representatives in these By-laws and shall include two (2) members appointed to represent the University Centers for Excellence (UCE) programs funded by the Administration on Developmental Disabilities as the two California UCEs.
- (c) Prior to appointing the nineteen consumer members described in (a) above, the Governor shall request and consider recommendations from organizations representing or providing services, or both, to persons with developmental disabilities

and shall take into account socioeconomic, ethnic, and geographic considerations of the state. The Council may, at the request of the Governor, coordinate Council and public input to the extent feasible to the Governor regarding recommendations for membership.

SECTION 2. Term of Office:

The term of office on the State Council shall be in accordance with state law. The term of each consumer member shall be for three years. In no event shall any consumer member serve for more than a total of six years.

SECTION 3. Conflict of Interest:

Pursuant to California Welfare and Institution Code Section 4525 the Council's approved Conflict of Interest Policy, is incorporated by reference into these By-laws.

SECTION 4. Vacancies:

A vacancy on the Council exists if any of the following events occur before the expiration of the term:

- (a) The death of the member.
- (b) An adjudication pursuant to a legal proceeding declaring that the member is physically or mentally incapacitated due to disease, illness, accident, or other condition, and that there is reasonable cause to believe that the member will not be able to perform the duties of office for the remainder of his/her term.
- (c) The member's resignation.
- (d) The member's removal from office.
- (e) The member's ceasing to be a legal resident of the state or the area the member was appointed to represent.
- (f) The member's absence from the state without the permission required by law beyond the period allowed by law.
- (g) The member's ceasing to discharge the duties of his/her office for the period of three consecutive months, except when prevented by sickness, or when absent from the state with the permission required by law. After three (3) consecutive unexcused absences, a member shall be considered as having ceased to discharge the duties of Council membership. An unexcused absence is an absence of a member when previous notice of absence has not been given to the Council Chair or Committee Chair and to the Executive Director by telephone, email, or mail.
- (h) The member's conviction of a felony or any offense involving a violation of his/her official duties. A member shall be deemed to have been convicted under this section when trial court judgment is entered.
- (i) The member's refusal or neglect to file his/her required oath or declaration of conflict of interest within the time prescribed.

- (j) The decision of a competent tribunal declaring void the member's election or appointment.
- (k) The making of a vacating order or declaration of vacancy.
- (l) The member assumes a position or responsibility that violates the Council's conflict of interest policy.

The Governor shall be notified when a vacancy occurs and shall appoint a person to serve the unexpired term of the member being replaced.

SECTION 5. Resignations:

Members shall serve a designated term unless they resign, or are otherwise disqualified to serve, or until successors have been appointed. Any member may resign at any time by giving written notice to the Chairperson and to the Executive Director. Such resignation shall take effect on the date of receipt of such notice or any later time specified therein; and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

SECTION 6. Compensation and Expenses:

Consumer members of the State Council shall receive honoraria pursuant to Government Code 11564.5, and Welfare and Institution Code Section 4550 not to exceed fifty (50) days in any fiscal year. All members shall be reimbursed for any authorized actual and necessary expenses incurred in connection with the performance of their duties as Council members, in accordance with state regulations in the State Administrative Manual.

SECTION 7. Voting Rights of Members:

- (a) Each member shall be entitled to one vote, to be exercised in person. Proxy voting shall not be permitted.
- (b) Except as otherwise specifically provided by these By-laws, all matters submitted for determination shall be decided by a majority vote of those voting.

ARTICLE VI. OFFICERS

SECTION 1. Officers:

The officers of the Council shall be a chairperson and a vice - chairperson elected from among the consumer members. These officers shall perform the duties described in these By-laws.

SECTION 2. Election of Member Officers:

Election of officers shall occur once every two years. The election shall be held during the last meeting of the appropriate calendar year. Only consumer members shall be eligible to hold office.

SECTION 3. Voting Procedure:

Council officers shall be elected by a majority vote of the voting members. Recommendations for officers shall be in the form of nominations from the Nominating Committee. However, nominations may also be received from the floor prior to the election, but subsequent to the report of the Nominating Committee.

SECTION 4. Term of Office:

The Chairperson and Vice-Chairperson shall be elected for a term of two years. Individuals may be

elected to these positions for no more than two consecutive terms. Their term of office shall begin the first day of the new calendar year.

SECTION 5. Vacancies:

If the Chairperson resigns or is permanently unable to serve during the term of office pursuant to Article V Section 4, the Vice-Chairperson shall become the Chairperson for the remainder of such term. Nominations and elections to fill the newly-vacated Vice-Chairperson position shall occur at the next noticed meeting of the Council. If the Vice-Chairperson resigns or is permanently unable to serve during the term of office, nominations and elections to fill the newly-vacated position shall occur at the next noticed meeting of the Council. The Chairperson shall appoint a Vice-Chairperson to serve until an election is conducted. The person so elected shall serve for the remainder of that term.

SECTION 6. Duties of the Officers:

- (a) Chairperson - The responsibilities of the Chairperson are: to preside at all meetings of the Council; to appoint chairpersons and members to all Council committees, except the Nominating Committees, to appoint Council representatives in relation to other agencies and consumer groups; and to represent the Council as needed. The Chairperson shall have full voting rights on all Council actions.
- (b) Vice-Chair - The responsibilities of the Vice-Chairperson are to perform all the duties of the Chairperson if the Chairperson is absent or if the Chairperson requests the Vice-Chairperson to do so. When acting in the capacity of the Chairperson, the Vice-Chairperson has the same authority as the Chairperson. The Vice-Chairperson also, serves as Chair of the Executive Committee and as Parliamentarian.

SECTION 7. Removal from Office:

Action to remove a member officer shall be in accordance with the following procedure:

- (a) Written notification must be submitted by registered mail to the Executive Director from Council member(s) describing the specific cause for which removal is sought.
- (b) The Executive Director shall notify the member officer charged by registered mail within two (2) working days of receiving the charges. Any member so notified shall have ten (10) days to respond to the group or individual responsible for notification. Following this ten (10) day period, the responsible parties shall notify the Executive Director within ten (10) days as to whether or not they wish to request removal of the officer. If the responsible parties are satisfied by the officer's response that no sufficient cause exists, the matter will be closed with written notice to the Executive Director and to the officer.
- (c) If the group or individual requesting removal is not satisfied by the response of the officer or if the officer fails to respond in ten (10) days, the Executive Director shall put the issue on the agenda at the beginning of the next Council meeting and inform the Council members as to the purpose of the agenda item.

- (d) Written charges shall be distributed and reviewed at the specified meeting of the Council.
- (e) An affirmative vote of two-thirds of the members shall be required to remove a chairperson or vice-chairperson from office. If removal of the Chairperson is under consideration, the vice-chairperson shall preside.

ARTICLE VII. COMMITTEES

SECTION 1. Authority:

- (a) Subject to the provision of these By-laws, all committees shall be advisory and no committee shall have the power to bind the Council except when specifically authorized by the Council to do so. All committee recommendations shall be presented to the Council for adoption in the form of a motion.
- (b) Subject to provision of these By-laws, a vacancy in the membership of a committee, except the Nominating Committee, may be filled by the Council Chairperson.
- (c) A majority of the Council member of the committee constitutes a quorum for transaction of business of that committee.
- (d) A committee may meet upon call of the chairperson of the committee or the Council Chairperson.
- (e) Unless otherwise specified in these By-laws, the Chairperson and the Executive Director of the Council shall serve ex officio, without vote, on all committees, except the Nominating Committee.
- (f) A committee member may be removed from the committee by the Council Chair after three (3) consecutive unexcused absences. An unexcused absence is an absence of a member when previous notice of absence has not been given to the Committee Chair or Executive Director or appropriate Deputy Director by telephone, e-mail or mail.

SECTION 2. Standing Committees:

- (a) There shall be four (4) standing committees of the State Council:
 - (1) Executive Committee
 - (2) Administrative Committee
 - (3) Legislative Committee
 - (4) Program Development Committee
- (b) The chairperson and members of each of the standing committees may be appointed by the Council chairperson. In the event of a vacancy for any reason in membership or the chair, a successor may be appointed by the Council Chairperson. In appointing standing committee chairpersons, the Council Chairperson may request volunteers

from the Council's consumer members. All committee chairperson appointments shall be announced to the Council at the next available Council meeting.

- (c) The membership of all standing committees, except the Executive Committee, shall be open to non-members of the Council. The expenses of non-Council members may be reimbursed on the same basis as a Council member with the exception of the honorarium.
- (d) All members of the Council shall be expected to serve on at least one standing committee of the Council.
- (e) The charge of each of these committees shall be as follows:

- (1) Executive Committee

The Executive Committee shall serve as the coordinating/advisory body to the Council. The Committee shall:

- [a] Consist of the Council Chairperson, Vice-Chairperson chairperson of the Administrative Committee, chairperson of the Legislative Committee, chairperson of the Planning and Program Development Committee, and four (4) other Council members, at least two (2) of whom shall be consumer members.
- [b] Be chaired by the Council Vice-Chairperson.
- [c] Act on behalf of the Council as authorized between meetings, but shall not modify any action taken by the Council unless authorized by the Council to do so. The full Council at the next regular or special meeting shall receive a report of all Executive Committee actions taken between Council meetings and ratify as necessary.
- [d] Make recommendations to the Council regarding approval of Community Program Development Grants (CPDG) projects to be funded, and allocations.
- [e] Appoint members of CPDG Grant Review team.
- [f] Provide advice to the Executive Director regarding the administration of Council resources.
- [g] Make recommendations to the Council regarding amendments to the By-laws, changes in committee structure or responsibilities.
- [h] Make recommendations to the Council regarding Council member training.

- [i] Make recommendations to the Council regarding the presentation of awards on behalf of the Council.
- [j] Make recommendations to the Executive Director regarding Council meeting schedules and agendas.
- [k] Make recommendations to the Council regarding matters assigned by the Council or the Council Chairperson.
- [l] Make recommendations to the Council regarding the hiring, evaluation, or termination of the Executive Director.
- [m] Monitor and evaluate State Plan implementation and submit findings to the Council.
- [n] Review and make recommendations to the Council regarding area boards' requests to initiate litigation per Welfare and Institution Code Section 4548(g)(4) and (6).
- [o] Coordinate the Council's litigative activities, as needed, and make recommendations to the full Council.
- [p] Take action on all requests for Conflict of Interest Policy exceptions and make all determinations whether a conflict of interest exists.

A majority of the members of the Executive Committee shall constitute a quorum.

1. Strategic Planning Sub-Committee

The Subcommittee shall:

- [a] Advise the Council on the collection and reporting of information on needs, including unmet needs, priorities and emerging issues
- [b] Make recommendations to the Council regarding policy priorities for the Strategic Plan and State Plan on Developmental Disabilities.
- (c) Assist the Council in the implementation and reporting of the goals and objectives of the Council's Strategic Plan and State Plan.

- (d) Coordinate planning implementation with the other Committees of the Council.

(2) Administrative Committee

The Administrative Committee shall assist with monitoring the administrative and budgetary activities of the Council. The Committee shall:

- [a] Be composed of at least three (3) Council Members
- [b] Make recommendations to the Council regarding allocation of discretionary fiscal resources and other budgetary issues.
- [c] Make recommendations to the Council regarding budgeting for anticipated fiscal resources among Council operations and specific service priorities for inclusion in the State Plan and the Governor's budget.
- [d] Make recommendations to the Council regarding monitoring and evaluating administrative contracts and agreements.
- [e] Make recommendations to Council regarding all contracts and agreements.
- [f] Monitor and evaluate administrative contracts and agreements; and take actions authorized in all Council contracts and agreements.
- [g] Make recommendations to the Council regarding administrative matters and policies.

A majority of the Council Members of the Administrative Committee shall constitute a quorum.

(3) Legislative Committee

The Legislative Committee shall monitor the implementation of Division 4.5 of the California Welfare and Institutions Code and the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq) and implement State Plan objectives as assigned by the Council. The Committee shall:

- [a] Be composed of at least seven (7) members.
- [b] Review and comment on pertinent plans, proposals, and budgets of all state agencies serving people with developmental disabilities.

- [c] Review and comment on significant proposed legislation and/or proposed regulations.
- [d] Recommend legislation consistent with Council's responsibilities and objectives.
- [e] Recommend initiatives and policies consistent with Council responsibilities and objectives.
- [f] Monitor and evaluate the effectiveness of appeals procedures established in the Lanterman Developmental Disabilities Services Act.
- [g] Provide testimony and recommendations to the Legislature with regard to fiscal or policy matters pertaining to people with developmental disabilities.
- [h] Review and report to the Council regarding alleged systemic violations of clients' rights.
- [i] Review and report to the Council regarding systemic issues related to the implementation of Division 4.5 referred to the Council.
- [j] Respond to other responsibilities as assigned by the Council or Council Chairperson.

A majority of the Council members of the Legislative Committee shall constitute a quorum.

(4) Program Development Committee

The Program Development Committee shall advise the Council in the development of policies and projects designed to improve the quality of life for individuals with developmental disabilities and their families. It will endeavor to bring together the various service coordinators and agencies in the system to provide a collaborative approach to planning and resource development. The Committee shall:

- [a] Be composed of at least seven (7) members.
- [b] Make recommendations to the Council regarding Community Program Development Grant (CPDG) application notice and selected priorities/criteria for proposals.
- [c] Develop methods to market and implement successful CPDG projects throughout the State.-

- [d] Carry out other responsibilities as assigned by the Council or the Council Chairperson.

A majority of the Council members of the Planning and Program Development Committee shall constitute a quorum.

SECTION 3. Nominating Committee:

The Nominating Committee shall provide advice to the Council relative to the annual election of Council officers. The Committee shall:

- (a) Be composed of at least three (3) and not more than five (5) Council members.
- (b) Be elected by the Council at the September Council meeting from a slate of nominations presented by the Executive Committee.
- (c) Serve for one year. Be elected at least forty-five (45) days prior to the annual election.

A majority of the Nominating Committee shall constitute a quorum.

SECTION 4. Committees, Sub-Committees and Ad-Hoc Committees and Task Forces:

- (a) Committees, Sub-committees, Ad-Hoc committees and Task Forces may be established by the Council to carry out assigned State Plan objectives and purposes of the Council.
- (c) The term of office, qualifications and method of appointment of these groups' chairpersons and members shall be established by the Council. The membership of Sub-Committees and Ad-Hoc committees shall be open to non-members of the Council and shall be appointed by the Chairperson of the Council. The expenses of non-Council members may be reimbursed on the same basis as a Council member with the exception of the honorarium.

ARTICLE VIII. MEETINGS

SECTION 1. Meetings:

- (a) There shall be no less than six (6) and no more than twelve (12) meetings of the Council per year.
- (b) Special meetings of the Council may be called by the Chairperson or, in case of absence or inability to act by the Chairperson, by the Vice-Chairperson. In case of a refusal to act by the Chairperson, a special meeting may be called by written request of nine (9) members of the Council. Only matters specified in the written notice of the meeting shall be considered at such a meeting.

- (c) Regular or special meetings of the Council shall be held at a place, date, and time designated by the Council or selected by the Chairperson.
- (d) All meetings of the Council shall be governed by the Bagley-Keene Open Meeting Act (Government Code Section 11120, et. seq.).

SECTION 2. Quorum:

A quorum shall be a simple majority of the Governor appointed members.

SECTION 3. Chairperson Pro Tem:

If neither the Chairperson nor Vice-Chairperson is present to preside at a Council meeting, a chairperson pro tem shall be elected by the majority vote of the Council members present.

SECTION 4. Rules:

The Council may adopt, from time-to-time, such policies and rules for the conduct of its meetings and affairs as may be required.

ARTICLE IX. COUNCIL GENERAL PROVISIONS

SECTION 1. Certification and Inspection:

The original or a copy of the By-laws, as amended or otherwise altered to date, certified by the Council shall be recorded and kept in a book that shall be kept in a location in the principal office of the Council, and such book shall be open to public inspection at all times during office hours.

SECTION 2. Records, Reports and Inspection:

- (a) The Council shall maintain or contract through an interagency agreement for adequate and correct accounts, books and records of all its business and properties.
- (b) Such records shall be kept at its principal place of business or available through any interagency agreement. All books and records shall be open to inspection by the Council and the general public, except those records or data regarding an employee, if such disclosure would constitute an unwarranted invasion of personal privacy, or records of the Council relating to its participation in a judicial proceeding.
- (c) An annual financial report and budgets shall be available for inspection at the Council's principal place of business.

ARTICLE X. EXECUTIVE DIRECTOR

SECTION 1. Employment:

The Executive Director of the Council shall be hired by and serve at the will of the Council. A performance review of the Council Executive Director shall be coordinated by the Executive Committee and conducted annually by the full Council.

SECTION 2. Responsibilities and Duties:

- (a) The Council Executive Director shall be the chief administrative officer of the Council and shall have all the authority and responsibility assigned to the director of a state

agency including budget, personnel, and contractual transactions. These include authority for entering into and execution of agreements on behalf of the Council in order to implement the policies of the Council.

- (b) The Council Executive Director shall be under the direction and control of the Council and shall do and perform such other duties as may be assigned by the Council.
- (c) The Council Executive Director shall serve as clerk to the Council.

ARTICLE XI. PARLIAMENTARY AUTHORITY

The rules contained in the current edition of Robert's Rules of Order shall govern all meetings except in instances of conflict with these By-laws, or provisions of state or federal statutes or regulations. The Vice-Chairperson shall serve as Parliamentarian.

ARTICLE XII. AMENDMENTS OF BY-LAWS

Subject to the limitations of federal and state law, these By-laws shall be reviewed annually. The Executive Committee shall be responsible for the annual review of the By-laws, submitting recommendations for adoption of new By-laws and amendments or repeal of existing By-laws to the Council. These By-laws may be amended or repealed or adopted by a two-thirds (2/3) vote of the Council Members present at any meeting at which a quorum is present and substance of the proposed action having been submitted in writing to the Council at least ten (10) days prior to the meeting.

ARTICLE XIII. INDEMNIFICATION

SECTION 1. Definitions:

For the purposes of this Article XIII, "agent" means any person who is or was a director or member as appropriate, officer, employee, or other agent of the Council. Proceeding means any threatened, pending, or completed action or proceeding, whether civil, criminal, administrative, or investigative; and expenses include without limitation attorney's fees and any expenses of establishing a right to indemnification under Section 4 or 5(b) of this Article XIII.

SECTION 2. Indemnification in Actions by Third Parties:

The Council shall have power to indemnify any person who was or is a party or is threatened to be made a party to any proceeding (other than an action by or in the right of the Council to procure a judgment in its favor, by reason of the fact that such person is or was an agent of the Council, against expenses, judgments, fines, settlements, and other amounts actually and reasonably incurred in connection with such proceeding if such person acted in good faith and in a manner such person reasonably believed to be in the best interests of the Council and, in the case of a criminal proceeding, has no reasonable cause to believe the conduct of such person was unlawful. The termination of any proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which the person reasonably believed to be in the best interests of the Council or that the person had reasonable cause to believe that the person's conduct was unlawful.

SECTION 3. Indemnification in Actions by or in the Right of the Council:

The Council shall have the power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action by or in the right of the Council, to procure a judgment in its favor by reason of the fact that such person is or was an agent of the Council, against expenses actually and reasonably incurred by such person in connection with the defense or settlement of such action if such person acted in good faith, in a manner such person believed to be in the best interests of the Council, and with such care, including reasonable inquiry as an ordinarily prudent person in a like position would use under similar circumstances. No indemnification shall be made under this Section 3:

- (a) In respect of any claim, issue, or matter as to which such person shall have been adjudged to be liable to the Council in the performance of such person's duty to the Council, unless and only to the extent that the court in which such proceeding is or was pending shall determine upon application that, in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for the expenses which such court shall determine;
- (b) Of amounts paid in settling or otherwise disposing of a threatened or pending action, with or without court approval; or
- (c) Of expenses incurred in defending a threatened or pending action, which is settled or otherwise disposed of without court approval, unless it is settled with the approval of the Attorney General.

SECTION 4. Indemnification Against Expenses:

To the extent that an agent of the Council has been successful on the merits in defense of any proceeding referred to in Section 2 or 3 of this Article XIII or in defense of any claim, issue, or matter therein, the agent shall be indemnified against expenses actually and reasonably incurred by the agent in connection therewith.

SECTION 5. Required Determinations:

Except as provided in Section 4 of this Article XIII any indemnification under this Article XIII shall be made by the Council only if authorized in the specific case, upon a determination that indemnification of the agent is proper in the circumstances because the agent has met the applicable standard of conduct set forth in Section 2 or 3 of this Article XIII, by:

- (a) A majority vote of a quorum consisting of directors or members as appropriate, who are not parties to such proceeding; or
- (b) The court in which such proceeding is or was pending upon application made by the Council or the agent or the attorney or other person rendering services in connection with the defense, whether or not such application by the agent, attorney, or other person is opposed by the Council.

SECTION 6. Advance of Expenses:

Expenses incurred in defending any proceeding may be advanced by the Council prior to the final disposition of such proceeding upon receipt of an undertaking by or on behalf of the agent to repay such amount unless it shall be determined ultimately that the agent is entitled to be indemnified as authorized in this Article XIII.

SECTION 7. Other Indemnification:

No provision made by the Council to indemnify its or its subsidiary's directors or members as appropriate, or officers for the defense of any proceeding, whether contained in the Articles, Bylaws, a resolution directors or members as appropriate, or an agreement, or otherwise, shall be valid unless consistent with this Article XIII. Nothing contained in this Article XIII shall affect any right to indemnification to which persons other than such directors or members as appropriate, and officers may be entitled by contract or otherwise.

SECTION 8. Forms of Indemnification Not Permitted:

No indemnification or advance shall be made under this Article XIII, except as provided in Section 4 or 5(b), in any circumstances where it appears:

- (a) That it would be inconsistent with a provision of the Articles, these By-laws, or an agreement in effect at the time of the accrual of the alleged cause of action asserted in the proceeding in which the expenses were incurred or other amounts were paid, which prohibits or otherwise limits indemnification; or
- (b) That it would be inconsistent with any condition expressly imposed by a court in approving a settlement.